If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2<sup>nd</sup> Floor (One Texas Center).

CASE # CL 5-2010-0157 ROW # LO 52920 (

CITY OF AUSTIN TO 8-021706 030)

APPLICATION TO BOARD OF ADJUSTMENT

GENERAL VARIANCE/PARKING VARIANCE

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED. STREET ADDRESS: 301 East 35<sup>th</sup> Street Austin Texas 78705 LEGAL DESCRIPTION: Subdivision – Grooms Addition Lot(s) 10 Block 10 Outlot Division Douglas Plummer on behalf of myself do affirm that on December , 2010 I hereby apply for a hearing before the Board of Adjustment for consideration to: (check appropriate items below) X ERECT ATTACH COMPLETE REMODEL MAINTAIN Move a historic cottage currently slated for demolition from 408 E 33<sup>rd</sup> at 301 East 35<sup>th</sup> Street Street to my corner property located Let width 50 > 48 1 Side Street setback 15 > 12.9. NUA-NCCD SF-3 district. (zoning district) NOTE: The Board must determine the existence of, sufficiency of and weight of evidence

supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

## **REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

## FOR THE SETBACK VARIANCE REQUEST:

The zoning regulations are not reasonable since the existing structures on my lot already are much closer to the street than the currently proposed location for the historic cottage. (My 1940's garage currently has only a 3 foot street side yard setback and my 1930's house has a 10 foot setback from the same street side yard where the cottage would be located).

FOR THE REQUIREMENT OF 50 FOOT LOT WIDTH FOR SECOND STRUCTURES REQUEST:

My property easily exceeds the 7000 square footage requirement for both the NCCD and City's zoning requirement for a second unit/two family residential since it has 8270 square feet. Additionally, the lot is zoned SF-3, which should allow 2 units. However the additional NCCD zoning requirement of a minimum lot width size of 50 feet is not reasonable given that all the properties on the entire block (with the exception of one property) are less than 48 feet in width and currently have second structures on their property (See the attached list of neighboring properties and attached photos). Since the thinking behind the NCCD was to discourage duplex use (due to the abuse of super duplexes and stealth dorms near the University of Texas), 2-family residential is the preferred NUNA redevelopment pattern.

## **HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

#### FOR THE SETBACK VARIANCE REQUEST:

We are desperately trying to save from destruction a historic wooden cottage located at 408 E 33<sup>rd</sup> currently slated for demolition. (Please see attached sketches of the historic property.) The historic cottage would extend only 2 feet into the setback requirements.

Additionally, the current 15 foot setback requirement does not reflect the current setback for the existing structures already on the property. My 1940's garage currently has only a 3 foot street side yard setback and my 1930's house has only a 10 foot setback from the same street side yard where the cottage would be located. (See the attached site plan/survey that shows the current locations of the garage and the home). Relaxing the rules on setback requirements would permit the neighborhood to save this historic cottage and would be completely consistent with the current character of both the lot as it is now configured and the broader character of the neighborhood.

FOR THE REQUIREMENT OF 50 FOOT LOT WIDTH FOR SECOND STRUCTURES REQUEST:

The neighborhood believes that this NCCD requirement was intended to prevent the creation of low quality duplexes and thinks that the banning of second structures like garage apartments was in error. They will be actively working to amend this lot width rule in the NCCD to exempt small second structures like this and to exempt garage apartments.

This requirement poses an undue hardship on this property since all of the properties on my side of the block have less than 50 foot width, (with the exception of one lot) and currently have a second dwelling structure on their property. (See attached photos and documents showing that these properties have 48 foot width AND all have second structures.)

Additionally the city has recently allowed another homeowner across the street with less than 48 feet in width lot to build a second dwelling structure. (See photo 5 of the recently completed second structure on a lot with less than 50 foot width.)

(b) The hardship is not general to the area in which the property is located because:

## FOR THE SETBACK VARIANCE REQUEST:

We are in a unique situation in that we are desperately trying to save a historic cottage from pending demolition. The dimensions of the historic cottage are just slightly over the setback requirement. Demolishing the historic cottage instead of granting a minor variance to the setback requirement would impose an undue hardship on the neighborhood and the owners of the two properties that are trying to work together to save this structure.

FOR THE REQUIREMENT OF 50 FOOT LOT WIDTH FOR SECOND STRUCTURES REQUEST:

NUNA is working to amend this requirement and thus no one else will face this same hardship.

### **AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

#### FOR THE SETBACK VARIANCE REQUEST:

The character of the area will not be altered since the structures on my lot already are much closer to the street than the currently proposed location. (See attached photo of

FOR THE REQUIREMENT OF 50 FOOT LOT WIDTH FOR SECOND STRUCTURES REQUEST:

Older Central City Neighborhoods like NUNA have established patterns of development utilizing garage apartments/second smaller structure. The thinking behind NUNA's NCCD was to encourage 2 family residential (garage apartments) in our area since that type of development is consistent with the

established neighborhood fabric of this older Central City neighborhood. Conversely, the original intent of the NCCD prohibition based on lot width size was to discourage DUPLEXES and not garage apartments, and NUNA will be actively working to amend our NCCD. Given the short time frame to save the historic house from pending demolition, we cannot wait the approximately one year it takes for such an amendment to be approved and thus a variance is sought as an immediate remedy to this problem. As a reminder, my lot has both the appropriate zoning and the square footage needed for a second structure; it is just the lot width requirement in the NCCD that is blocking our efforts to save the historic cottage.

# **PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1.	Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:
2.	The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:
-	
3.	The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:
4.	The variance will run with the use or uses to which it pertains and shall not run with the site because:

are true and correct to the best of my knowledge and belief.

Signed Mail Address 301 East 35<sup>th</sup> Street

City, State & Zip \_\_\_\_ Austin, Texas 78705\_

Printed \_Douglas M Plummer\_ Phone \_512-789-6466 Date December \_\_\_\_\_2010

# GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

#### **VARIANCE REQUIREMENTS:**

#### **General Requirements:**

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the Land Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- **B.** A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

<u>SUBMITTAL REQUIREMENTS:</u> (Failure to complete the application or to submit all the required materials will result in non-acceptance of the application.)

- A completed application indicating all variances being requested. An application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
- (2) A site plan to scale indicating present and proposed construction and location and use of structures on adjacent lots.
- (3) A tax plat with subject property clearly marked indicating property within a 500-foot radius. These are available from the Travis Central Appraisal District at 8314 Cross Park Drive (834-9138).
- (4) Check made payable to the City of Austin for the Board of Adjustment application fee. (Residential zoning \$360. All other zonings \$660.)
- (5) Other Information Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s)

etc. Any additional information you wish to submit must be in our office one week prior to the meeting. The Board will receive a packet with all information that has been submitted on the Thursday prior to the meeting.

#### (6) Austin Energy approval

Variances approved by the Board are limited to and conditioned upon the plans and specifications presented by the applicants, except as modified by the Board.

**REQUIRED FINDINGS:** All variance findings must be met in order for the Board to grant a variance. An application must include proposed findings that will support the requested variance. Incomplete applications will not be accepted.

#### Reasonable Use:

Application must demonstrate to the Board how the zoning regulations applicable to the property do not allow for a reasonable use of the property. [Note: The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning.]

#### Hardship:

- a. Application must demonstrate to the Board how the hardship for which the variance is requested is unique to the property. Hardship should be specific to the property for which the variance is being requested. (For example, topography, lot configuration, or any physical constraint that would limit the placement of the structure or prevent compliance with required site development regulations, etc.) A strictly financial or personal reason is not a valid hardship.
- b. Application must demonstrate to the Board why the hardship is not general to the area in which the property is located. Describe how the hardship relating to the site is different from other properties in the area.

#### Area Character:

Application must demonstrate to the Board how the variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the zoning regulations of the zoning district in which the property is located.

**NOTE:** Parking variances require additional findings to be made. The additional findings are listed on the application and must also be completed for submittal of the application.

#### **Board of Adjustment Staff:**

Susan Walker, Planner 974-2202

Diana Ramirez, Administrative Specialist, Board Secretary 974-2241

Fax #974-6536

Watershed Protection and Development Review Department One Texas Center 505 Barton Springs Road, 2<sup>nd</sup> Floor

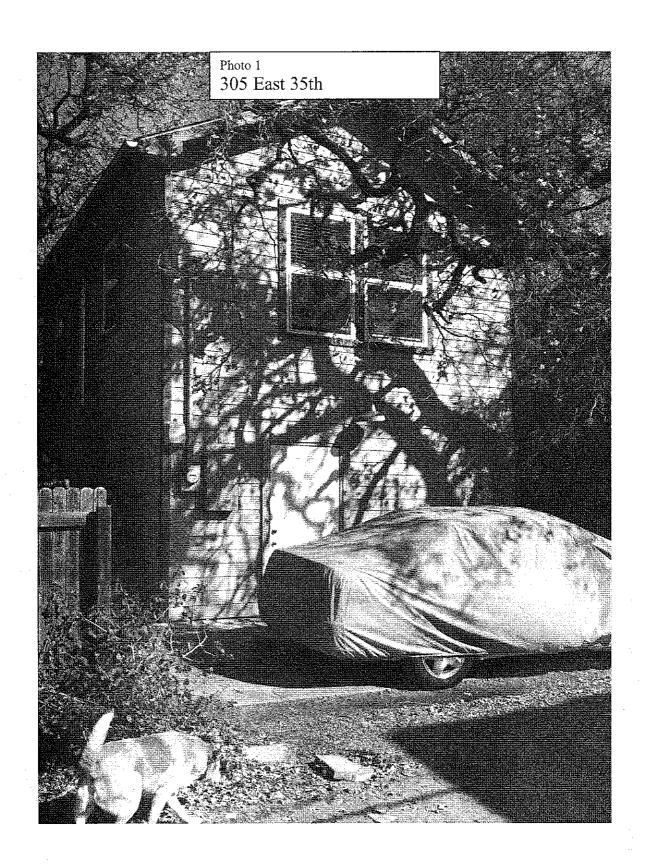
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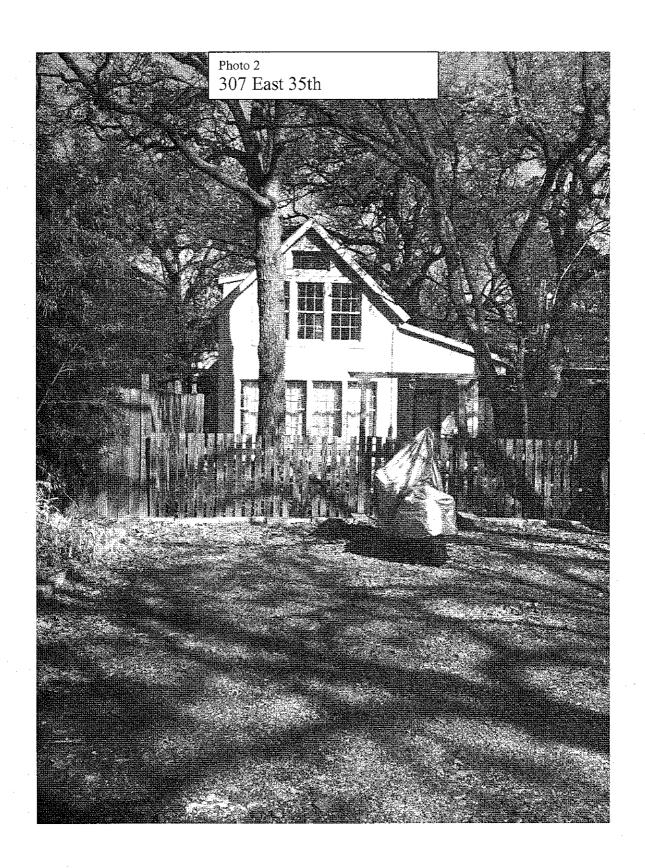


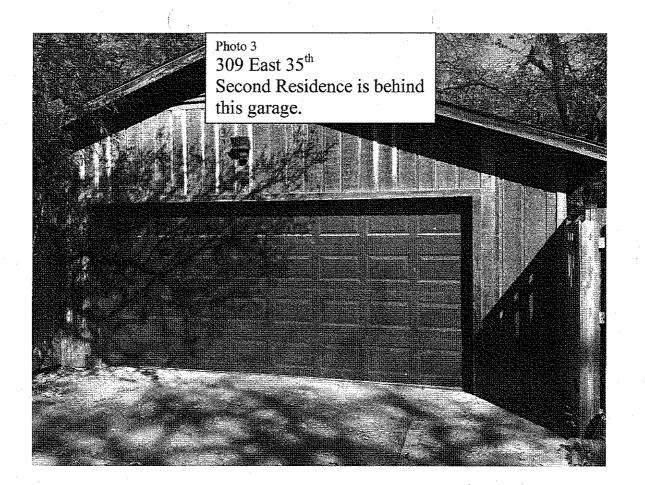
ARIANNE K MULREY 3 E 36TH ST ISTIN, TX 78705-1612	
Location 303 E 35 ST 7870	
W24FT LOT 9 *8 E 24FT LOT 10 BLK 10 GROCM ADDN	No Second Structure
mer's Name: CAYLOR REED & MARGO SHAW	
Maling: 1.305 E 35TH ST Address AUSTIN, TX 78705-1612	See Photo #
Legal E48FT LOT 9 BLK 10 GROOMS ADDN 48 Foot width	See I hoto #1
mer's Name ROQUEMORE ABB L	
PMB 325  Mailing STE 1A  Address 803 W 13TH ST  AUSTIN, TX 78701-1796	
Legal W 49FT LOT 8 BLK 10 GROOMS ADDN 49FT LOT 8 BLK 10 GROOMS ADDN 49FT LOT 8 BLK 10 GROOMS ADDN	See Photo 2
mer's Name STEEDE CRAIG E TRUSTEE  CRAIG E STEEDE LIVING TRUST	
Mailing: 309 E 35TH ST AUSTIN, TX 78705-1612	
Legal W24FT LOT 7 *& E 24FT LOT 8 BLK 10 GROOMS ADDN 48 foot width	See Photo 3
POWERS ANN REBECCA	3405 Tom
Mailing. Address. AUSTIN, TX 78704-2044	Green takes the back of
Location 311 E 35 ST 78705  Legal W12FT OF N110FT LOT 6 *& E 48FT OF N110FT LOT 7 BLK 10 GROOMS ADDN	this lot
	·
owner's Name   SCALO JOHN & JULIETA	
Mailing 3405 TOM GREEN ST Address ALICTINITY 79705 1639	See Photo 4
AUSTIN, TX 78705-1628	

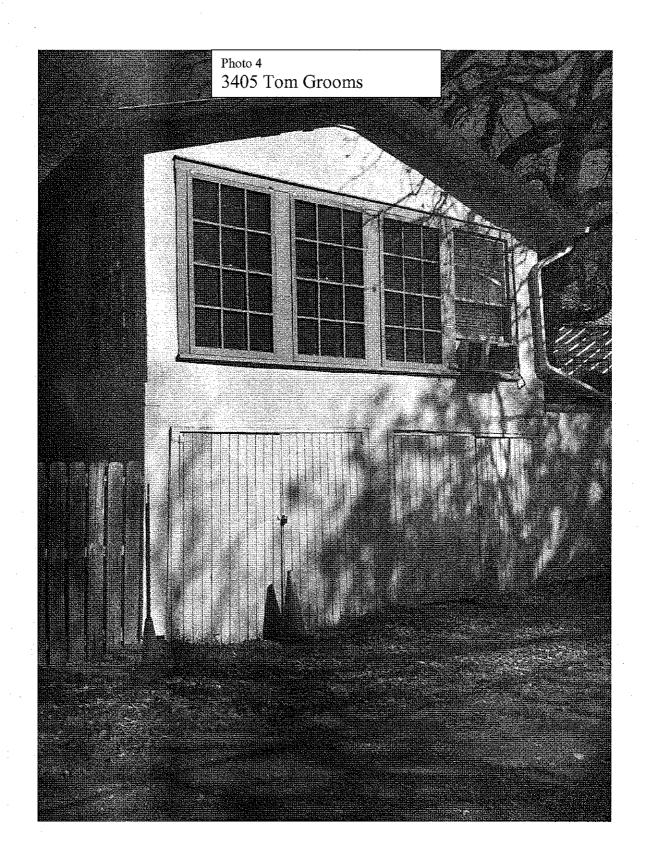
Owner's Name SHAH RAJESH S & MARYROSE A GALLUZZO		
Mailing Address	302 E 35TH ST AUSTIN, TX 78705-	
Location	302 E 35 ST 78705	
Legal	LOT 2 BLK 5-8 HARPERS RESUB	

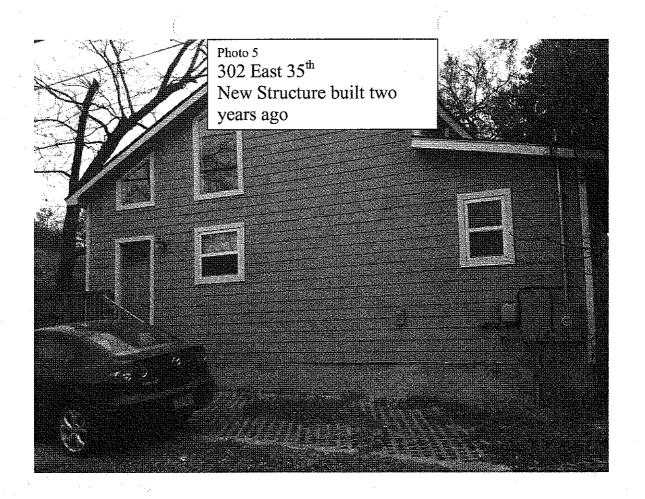
See Photo 5.



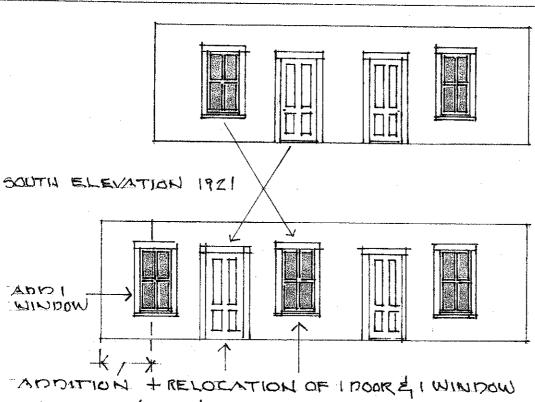












SOUTH ELEVATION 9.9.45 OR9.18.46



NOTE! THE ADDITIONS ASSOCIATED WITH THE RELOCATION ON THE LOT IN 1945 SKILLFULLY PRESERVED THE HISTORIC MATERIALS AND SCALE OF THE 1917 COTTAGE

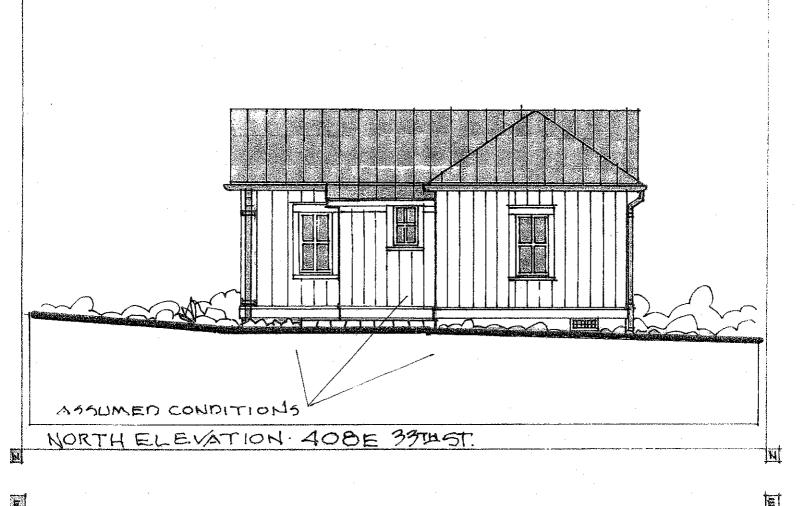


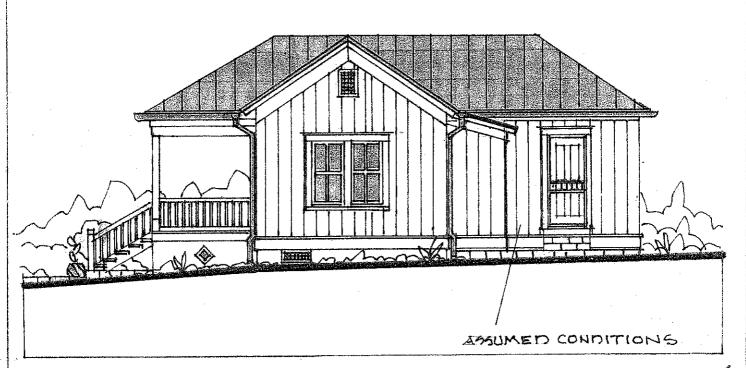
WEST ELEVATION 408E 33TH

W

W

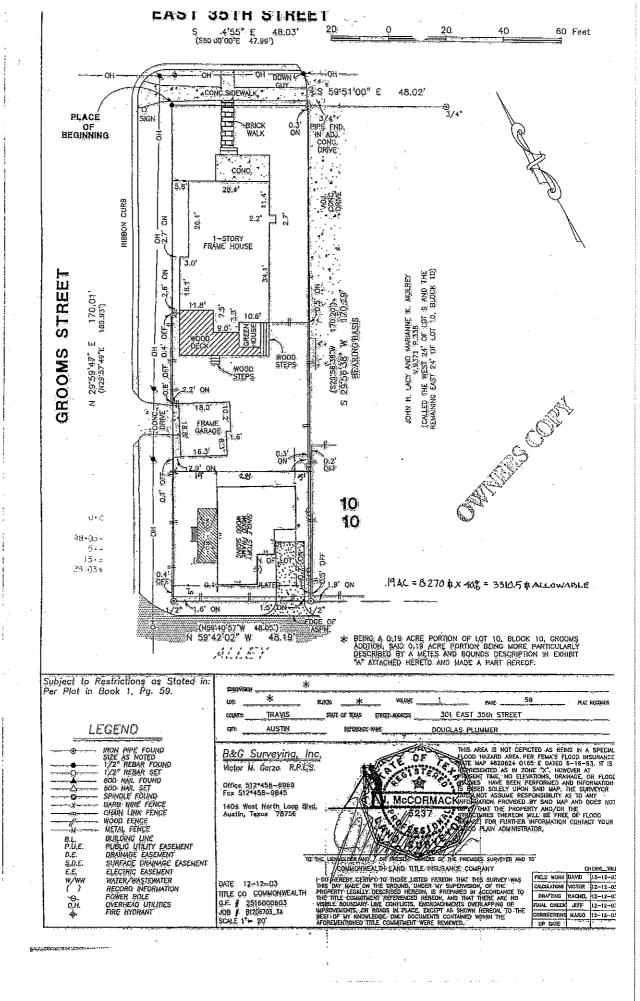
7.21.10 5





EAST ELEVATION 408E 33TH ST

7.21.10





# **City of Austin**

Austin Energy

Town Lake Center • 721 Barton Springs Road • Austin, Texas 78704 - 1145

Austin's Community-Owned Electric Utility

December 21, 2010

Mr. Douglas M. Plummer 301 E 35<sup>th</sup> Street Austin, Texas 78705

Re:

301 East 35th Street

Lot 10, Block 10 Grooms Addition

Dear Mr. Plummer:

Austin Energy (AE) has reviewed your application for the above referenced property requesting to move a historic cottage to the property. Austin Energy has no conflicts with this application as requested and shown on the attached red-stamped sketch.

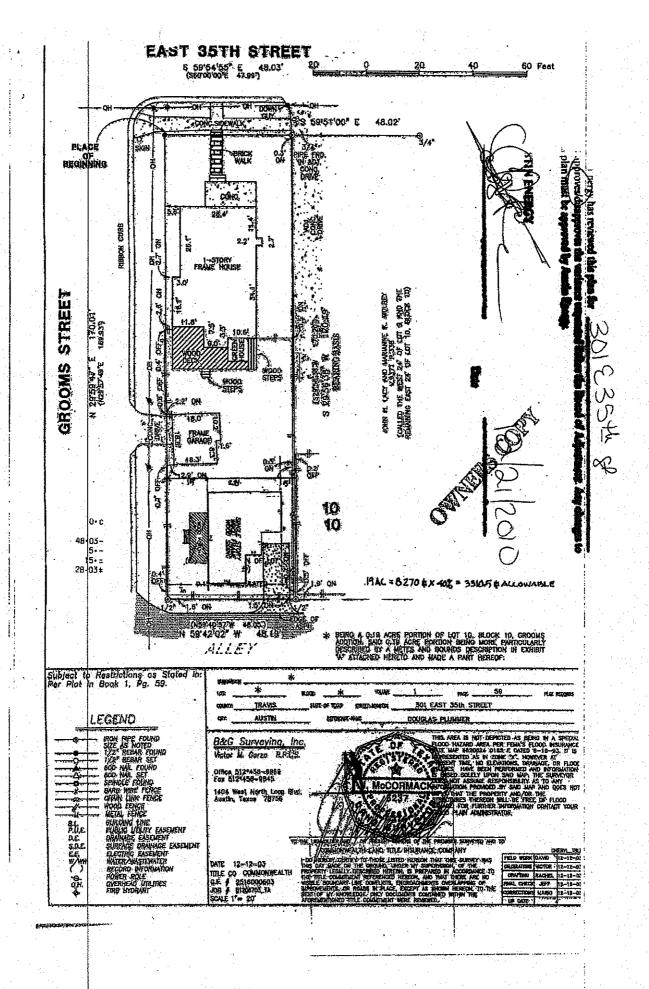
Thank you for checking with us in advance. Should you have any questions, please feel free to contact me at 322-6112.

Sincerely

Christine Esparza

Public Involvement & Real Estates Services

Cc: Diana Ramirez and Susan Walker



# North University Neighborhood Association



City of Austin
Board of Adjustments
c/o Susan Walker
susan.walker@ci.austin.tx.us

Tuesday, December 07, 2010

Dear Ms. Walker:

Over the last few months the North University Neighborhood Association (NUNA) has been working hard to develop a solution to the conflict that surrounded the demolition permit for the cottage at 408 E 33<sup>rd</sup> street. The owners Charles and Christine Boes wish to remove the structure to build a home there. Many neighbors supported their wishes; however other neighbors expressed concern that the structure might be considered historic.

In a unique solution to this conflict, Douglas Plummer has offered to the take the structure and move it onto the back of his lot at 301 East 35<sup>th</sup> street. Unfortunately NUNA's NCCD does not permit second structures on lots less that 50' width which is more restrictive than the city's requirement that the property have at least 7000 square foot of land, but no particular lot width. (This property has 8374 square feet. Additionally the NCCD's street side setback requirements of 15' are too restrictive to permit the structure to fit in the yard. (The cottage would need a variance for a 13' setback for the cottage to fit on the lot).

Given the desire of the neighborhood to save the structure through this unique solution, the Executive Committee voted to endorse Douglas Plummer's efforts and hopes that you will help to facilitate his request for two variances. We feel that this represents a true "win win" for the neighborhood.

Thank you for your consideration.

Sincerely,

Laurence Miller

President

North University Neighborhood Association

CC: Executive Committee Email List